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3                   **IN THE DISTRICT COURT**  
4                   **FOR THE TERRITORY OF GUAM**

5                   UNITED STATES OF AMERICA,

6                   Plaintiff,

7                   vs.

8                   4,352 ACRES OF LAND, MORE OR LESS,  
9                   IN THE ISLAND OF GUAM, MARIANAS  
10                  ISLANDS AND PEDRO MARTINEZ ADA,  
11                  *et al.*,

12                  Defendants.

13                  Case No.: 50-cv-00038

14                   **ORDER**

15                  DENYING OBJECTIONS TO REPORT  
16                  AND RECOMMENDATION, ADOPTING  
17                  REPORT AND RECOMMENDATION,  
18                  AND DENYING MOTIONS FOR  
19                  CONDEMNATION COMPENSATION  
20                  WITHOUT PREJUDICE

21                   **I. INTRODUCTION**

22                  Before the Court are Jesus S.N. Quintanilla's motions for condemnation compensation (ECF  
23                  Nos. 2971, 2974), and the Magistrate Judge's Report and Recommendation that recommends denying  
24                  the motions without prejudice. (ECF No. 2975.) Also before the Court is Quintanilla's objection to  
25                  the Report and Recommendation. (ECF No. 2977.)

26                   **II. BACKGROUND**

27                  On August 15, 2017, Quintanilla filed a motion for condemnation compensation. (First Mot.  
28                  for Compensation, ECF No. 2971.) In this motion, Quintanilla claims that he is an heir of Juan Perez  
29                  Quintanilla, and that Juan Perez Quintanilla owned Lot No. 5235, property subject to a leasehold  
30                  condemnation by the U.S. Government. (*Id.* at 2; ECF No. 2971-1 at 8.) As the heir, Quintanilla  
31                  argues that he is entitled to compensation that Juan Perez Quintanilla was entitled to as owner of Lot  
32                  No. 5235, but did not receive. (First Mot. for Compensation 2; Ex. to Mot. for Compensation 17-24,  
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ECF No. 2971-2; Ex. to Mot. for Compensation (cont'd), ECF No. 2971-3.)

On August 24, 2017, Quintanilla filed a substantially similar motion with the Court, again requesting compensation owed due to the leasehold condemnation of Lot No. 5235. (ECF No. 2974.) On August 31, 2017, the Magistrate Judge issued a Report & Recommendation (“R&R”) that recommended the motions be denied without prejudice on the ground that Quintanilla had not sufficiently demonstrated he was the “executor, administrator or personal representative of the estate of Juan Perez Quintanilla under Guam law,” and therefore was not legally permitted to bring the claim. (R&R 3, ECF No. 2975.) The R&R notified the parties, including Quintanilla, that they had fourteen days from the date of service of the R&R to file objections. (*Id.*) The United States filed a response concurring in the recommendation of the R&R. (ECF No. 2976.) Quintanilla acknowledged receipt of service on September 1, 2017. Objections were due September 15, 2017. See 28 U.S.C. § 626(b)(1); Fed. R. Civ. P. 72(b). Quintanilla belatedly filed a response on September 19, 2017, in which he requests additional time for the Superior Court of Guam to decide his petition to serve as administrator of the estate. (ECF No. 2977.)

### **III.    LEGAL STANDARD**

When a party objects to a magistrate judge’s report and recommendation, the district court judge ‘shall make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.’ 28 U.S.C. § 636(b)(1). The district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” *Id.* She need not review any parts that are not objected to. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.2003) (en banc), *cert. denied*, 540 U.S. 900 (2003).

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**IV. DISCUSSION**

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The Court has reviewed the record and agrees with the recommendation from the Magistrate  
3 Judge. Fed. R. Civ. P 17(b)(3) requires that a party suing in a representative capacity, as Quintanilla  
4 is here, be permitted to bring the claim under the law “where the court is located,” which is Guam in  
5 this case. Guam law, as set forth in the R&R, states who acquires the property interests of a deceased,  
6 and these conditions must be met for an individual to file a claim in federal court under Fed. R. Civ.  
7 P. 17.

8 Quintanilla appears to acknowledge that he has not satisfied these conditions, and has therefore  
9 petitioned the Superior Court of Guam for a letter of administrator to pursue this claim. His objection  
10 to the R&R on the ground that he needs more time for his petition for a letter of administrator is  
11 therefore denied. Adopting the R&R in this case permits Quintanilla to refile his claims provided he  
12 is granted the appropriate legal status under Guam law.

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**V. CONCLUSION**

15 For the reasons set forth above, Quintanilla’s objection (ECF No. 2977) to the Report and  
16 Recommendation is DENIED, and the Report and Recommendation (ECF No. 2975) is ADOPTED.

17 It is ORDERED that the motions for condemnation compensation (ECF Nos. 2971, 2974) be  
18 DENIED WITHOUT PREJUDICE.

19 SO ORDERED on February 22, 2018.

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23 RAMONA V. MANGLONA, Designated Judge